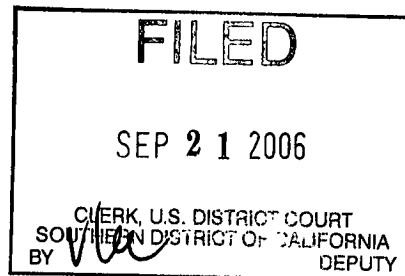


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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

06CR2066-H

10 UNITED STATES OF AMERICA,

Magistrate Case No. 06MG1694

11 Plaintiff,

12 v.

13 **STIPULATION OF FACT AND JOINT**
MOTION FOR RELEASE OF
MATERIAL WITNESS(ES) AND
ORDER THEREON

14 JOSE RUVALCABA-MARTINEZ,

15 Defendant.

(Pre-Indictment Fast-Track Program)

16 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
17 OF AMERICA, by and through its counsel, Carol C. Lam, United States Attorney, and
18 William A. Hall, Jr., Assistant United States Attorney, and defendant
19 JOSE RUVALCABA-MARTINEZ, by and through and with the advice and consent of defense
20 counsel, Carol N. Chodroff, Esq., Federal Defenders of San Diego, Inc., that:

21 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
22 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
23 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
24 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
25 of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C.
26 § 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

27 //

28 //

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **October 11, 2006**.

6 4. The material witness, Leticia Murillo, in this case:

7 a. Is an alien with no lawful right to enter or remain in the United States;

8 b. Entered or attempted to enter the United States illegally on or about
9 September 8, 2006;

10 c. Was found in a vehicle driven by defendant at the Otay Mesa, California Port
11 of Entry (POE) and that defendant knew or acted in reckless disregard of the fact that she was an
12 alien with no lawful right to enter or remain in the United States;

13 d. Was having others pay on her behalf an unknown amount to others to be
14 brought into the United States illegally and/or transported illegally to her destination therein; and,

15 e. May be released and remanded immediately to the Department of Homeland
16 Security for return to her country of origin.

17 5. After the material witnesses are ordered released by the Court pursuant to this
18 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
19 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
20 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

21 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
22 substantive evidence;

23 b. The United States may elicit hearsay testimony from arresting agents
24 regarding any statements made by the material witness(es) provided in discovery, and such testimony
25 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
26 of (an) unavailable witness(es); and,

27 //

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Jose Ruvalcaba-Martinez

1 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
2 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
3 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
4 waives the right to confront and cross-examine the material witness(es) in this case.

5 6. By signing this stipulation and joint motion, defendant certifies that defendant has
6 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
7 further that defendant has discussed the terms of this stipulation and joint motion with defense
8 counsel and fully understands its meaning and effect.

9 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
10 immediate release and remand of the above-named material witness(es) to the Department of
11 Homeland Security for return to her country of origin.

12 It is STIPULATED AND AGREED this date.

13 Respectfully submitted,

14 CAROL C. LAM
15 United States Attorney

16 Dated: 9-21-06

Christ Miller for
17 WILLIAM A. HALL, JR.
Assistant United States Attorney

18 Dated: 9-15-06

Carol N. Chodoff
19 CAROL N. CHODROFF
20 Defense Counsel for Jose Ruvalcaba-Martinez

21 Dated: 9-15-06

Jose Ruvalcaba M.
22 JOSE RUVALCABA-MARTINEZ
23 Defendant
24
25
26
27

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Jose Ruvalcaba-Martinez

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to her country of origin.

SO ORDERED.

Dated: 9/21/2006


United States Magistrate Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)

Plaintiff)

vs.)

JOSE RUVALCABA-MARTINEZ
Defendant(s))

CRIMINAL NO. 06 CR 2066-14

ORDER

RELEASING MATERIAL WITNESS

Booking No.

On order of the United States District / Magistrate Judge, Ruben B. Brooks

IT IS HEREBY ORDERED that the following named person heretofore
committed to the custody of the United States Marshal as a material witness be
released from custody: (Bond Posted / Case Disposed / Order of Court).

Leticia Murillo

DATED: 9/21/06

Ruben B. Brooks
UNITED STATES DISTRICT/MAGISTRATE JUDGE

RECEIVED

DUSM

OR

W. SAMUEL HAMRICK, JR. Clerk

by [Signature]

Deputy Clerk